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**OFFICE OF PETITIONS**

In re Application of

: DECISION GRANTING

Barry, et al.

: PETITION UNDER 37 CFR

Application No. 09/159,695

: 1.183 and GRANTING

Filed: September 24, 1998

: PETITION UNDER 37 CFR

Atty. Dkt. COS-97-087

: 1.48

This decision is in response to the petition renewed under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(3) and the petition under 37 CFR 1.48, filed August 9, 2004.

The above-identified application was filed September 24, 1999. An executed declaration naming B.R. Reilly, M.A. Chodoronek, E. Derose, M.N. Gonzales, A.R. James, L. Levy, and M. Tusa as joint inventors. Petitioners herein seeks to correct the inventive entity of this application by adding CAROL Y. DEVINE as a joint inventor.

**DECISION UNDER 37 CFR 1.183**

The provisions of 37 CFR 1.183 provide that "[i]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed."

Petitioners seek to correct the inventive entity in the instant application by submitting a petition under 37 CFR 1.48. Petitioner is required under 37 CFR 1.48(a)(3) to submit an oath or declaration by the actual inventor or inventors as required by §1.63 or as permitted by §§ 1.42, 1.43 or § 1.47. Petitioners are unable to comply with this requirement because three of the original inventors have either refused to sign the supplemental declaration or cannot be reach or located to sign the supplemental declaration.

Petitioners have established that inventors E. Derose, M. N. Gonzales, and L. Levy have refused to execute the supplemental

declaration for the above-identified application or cannot be reached or locate the supplemental declaration.

Accordingly, the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(3) is hereby GRANTED.

**DECISION UNDER 37 CFR 1.48**

In view of the papers filed December 12, 2003, June 8, 2004, and August 9, 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48. The inventorship of this application has been changed by adding CAROL Y. DEVINE as a joint inventor.

Accordingly, the petition under 37 CFR 1.48 is hereby GRANTED.

Enclosed please find a corrected filing receipt whereupon the requested addition of inventor can be noted.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.



Alesia M. Brown  
Petitions Attorney  
Office of Petitions

Enclosure:      Corrected Filing Receipt